

Montana Source Income and Your Tax Filing Responsibilities

Every year, thousands of parcels of Montana property are transferred. When the property is transferred, a Montana tax return has to be filed to report any recognized taxable gain. Rents received from Montana real estate are also Montana source income, and have to be reported.

Nonresidents are required by law to file Montana tax returns and report their Montana source income. Research shows that many nonresidents do not properly report the taxable income on the sale or rental of Montana property to the State of Montana, because they do not understand their Montana tax filing responsibilities.

Because Montana residents are required to report all of their income, regardless of where it is earned, nonreporting is rarely a problem with residents. If a Montana resident becomes a nonresident, the Montana source income rules will apply.

Required Tax Returns and Reports

A *realty transfer certificate*, often called an RTC, has to be completed before a deed transferring real estate is recorded with the county Clerk and Recorder. An RTC is usually completed by the closing agent. The Montana Department of Revenue uses the realty transfer certificate information to administer property taxes and to ensure income tax compliance.

An *income tax return* needs to be filed when Montana real estate is transferred or rents are received. A Montana tax return is required in the year that the gain is recognized

Are you transferring Montana real estate or earning rental income from Montana properties?

Important, please read first. If you transfer Montana real property, you are required to file a Montana tax return to report any gain that is recognized for federal income tax purposes. "Transfer" includes sales, exchanges, gifts, inheritances, foreclosures or any other transaction where the property changes ownership. If you receive rental income from Montana real estate, you are required to file a Montana tax return to report rents you receive.

Montana Real Estate

For income tax purposes, Montana real estate includes not only land and buildings, but also items such as growing timber, minerals, pipelines and other improvements and interests in real property.

Montana Source Income

Montana source income is defined specifically in Montana law (15-30-2101(18) and 15-31-403, MCA). In simple terms, Montana source income is income or gain from property in Montana or from transactions or activities that take place in Montana. This brochure only addresses Montana source income as it relates to common Montana real estate transfers and rents received from Montana property. It does not cover all types of Montana source income.

for federal income tax purposes. A Montana tax return is also required to report rents received from Montana property.

The following returns should be filed to report Montana source income:

For individuals

Form 2, Montana Individual Income Tax Return

For corporations

Form CLT-4, Montana Corporation License Tax Return

For partnerships

Form PR-1, Montana Partnership Information Return

For S corporations

Form CLT-4S, Montana S Corporation Information Return

For Estates or Trusts

FID-3, Montana Income Tax Return for Estates & Trusts

Please note: An LLC files according to the type of return used to file federal information.

Frequently asked questions

Q: Will someone withhold taxes for me when I sell my property or should I pay estimated taxes?

A: Montana does not have a requirement for tax to be withheld on a real estate transfer. If you will have to file a Montana tax return to report a gain on a property transfer, you may find it beneficial to make estimated tax payments. This will help reduce any tax liability – and related interest and penalties – that need to be paid when you file your Montana tax return. Please visit the Department of Revenue's website at revenue.mt.gov for information regarding estimated tax payments, including how to pay your estimated taxes electronically through Income Tax Express.

Q: What if the property that I transfer is my personal residence? Do I still have to file a return and pay taxes?

A: No, not unless you are required to report taxable gain from the sale for federal income tax purposes. Montana follows federal rules for determining whether gain realized on a transfer of property is taxable. You can refer to IRS Publication 523, Selling Your Home.

Q: What if I don't have to pay federal taxes on the property that I transferred this year?

A: If a taxable gain is realized but deferred to a later tax year, a Montana tax return has to be filed the year the gain is recognized for federal income tax purposes. Examples of transfers that permit a gain to be deferred are installment sales, Section 1031 (like-kind) exchanges, and Section 1033 involuntary sales. You should file a return in Montana the year that the transfer occurs so that your account with the Department of Revenue will be complete, showing that no tax is due on the transfer that year.

Q: What if the transfer of Montana property results in a loss, rather than a gain?

A: If the loss from the transfer of property is the only Montana source income that an individual recognizes during the year, a Montana tax return is not required. When the Department of Revenue receives information about the

transfer of Montana property and no Montana tax return has been filed, you will be contacted to explain why you didn't file a return. Therefore, you may want to file a return to report a zero tax liability so that your records are complete.

Q: What if I inherit property in Montana this year, but I am not going to sell it until later?

A: Property that is inherited as part of an estate may be valued at the market price for that property in the year that it was transferred to you. You should establish the value of that property when you receive it so that you can correctly calculate the amount of tax you need to pay when you do decide to sell. One way to establish the value is to have it appraised.

For More Information

Do you have more questions?

The Montana Department of Revenue is happy to provide you with additional information about Montana source income. If you have questions or need assistance from us, please call us toll free at (866) 859-2254 (in Helena 444-6900).

Want to learn more?

You can find valuable information about Montana source income on our website.

- Montana's tax laws on source income are located under Montana Code Annotated, Sections 15-1-601, 15-30-2101 and 15-31-403.
- The Montana Department of Revenue's administrative rules on source income are located under Administrative Rules of Montana, 42.2.304.
- Rules about the calculation of Montana source income from property transferred as part of a Section 1031 exchange are located under Administrative Rules of Montana, 42.2.308.

Need Montana tax forms?

- Please visit our website at revenue.mt.gov to download tax forms.
- Call toll-free at (866) 859-2254 (in Helena 444-6900)
- Send an e-mail message to dorforms@mt.gov
- Write to Montana Department of Revenue, Attn: Forms Distribution, P.O. Box 5805, Helena, MT 59604-5805